

REMARKS

Reconsideration and allowance in view of the following remarks are respectfully requested.

The Drawings

Applicants have herewith submitted corrected drawings in compliance with the requirements of 37 CFR § 1.121(d). More particularly, the drawings have been re-formatted to have proper margins. Accordingly, the Applicant respectfully requests that the objection under 37 CFR § 1.83(b) be withdrawn.

The Claims

The Rejections Under 35 U.S.C. §§112 and 101

Claims 13 and 27 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite and under 35 U.S.C. §101 as being non-statutory. The Applicant respectfully traverses both of these rejections, and further requests that these rejections be reconsidered and withdrawn.

With regard to the rejection under 35 U.S.C. §112, second paragraph, the rejection states that “it is unclear what method/process applicant is intending to encompass.” The applicant responds by asserting that the format of Claims 13 and 27, reciting a computer-readable medium with instructions to perform certain steps or a computer programmed to perform the steps, was approved in *In re Beauregard*, 35 USPQ2d 1383 (Fed. Cir. 1995). Thus, the clarity of the subject matter of claims such as Claims 13 and 27 should no longer be in question.

The primary difference between the claims in *Beauregard* and presently rejected Claims 13 and 27 is that Claims 13 and 27 are presented as dependent claims. Often this

format raises an initial concern because the preambles differ from the base claims to the dependent claims. However, the dependent Claims 13 and 27 comply with a format approved by the Board of Patent Appeals and Interferences in *Ex parte Adrianus P.M.M. Moelands*, 3 USPQ2d 1474 (PTO Board of Pat App and Int 1987). In that case, the Board upheld as appropriate the following dependent claim to a data transmission system:

11. A data transmission system comprising:
at least two of the data transmission stations of claim
10;
a clock bus interconnecting the clock terminals of the
stations; and
means which maintain the clock bus at the second
voltage level in the absence of forcing by the stations.

The Applicant submits that the preamble in the above Claim 11 recites a “data transmission system,” which is different than the preamble in the base Claim 10, which recites a “data transmission station”. The Board held that this dependent claim format satisfies the statutory requirements of 35 U.S.C. §112, second paragraph. Therefore, the Applicant respectfully requests that the rejection of Claims 13 and 27 under 35 U.S.C. §112, second paragraph, be withdrawn.

With regard to the rejection under 35 U.S.C. §101, the rejection asserts that the rejected claims result in an improper definition of a process. However, as set forth above with regard to the rejection under 35 U.S.C. §112, second paragraph, the format of claiming a computer-readable medium with instructions to perform certain steps or a computer programmed to perform the steps was approved in *In re Beauregard*, (*ibid*), and *Ex parte Adrianus P.M.M. Moelands*, (*ibid*). Thus, it is respectfully submitted that Claims 13 and 27 are, in fact, acceptably and properly formatted, and therefore it is further requested that the rejection of Claims 13 and 27 under 35 U.S.C. §101 also be withdrawn.

The Rejection Under 35 U.S.C. § 103

Claims 1-36 were rejected under 35 U.S.C. §103(a) as being unpatentable over Jardin (U.S. Patent No. 6,681,327; hereafter “Jardin”) in view of Ranger, *et al.* (U.S. Patent No. 6,393,568; hereafter “Ranger”). The Applicant respectfully traverses this rejection, and further requests that this rejection be reconsidered and withdrawn.

With regard to **Claim 1**, the Applicant is first compelled to respond to the statement in the rejection that “Ranger discloses performing a test relative to the decrypted data, the test yielding one of at least a first result and a second result, wherein the Examiner interprets the first result as the data not presenting a security risk and the second result as the data presenting a security risk,” (emphasis added by Applicant). In particular, the Applicant submits that the “interpretation” emphasized above is not appropriate because it attributes features or limitations to Claim 1 that simply are not recited therein. Thus, the Applicant respectfully requests that the stated interpretation of Claim 1 be withdrawn.

Further, the Applicant respectfully submits that the rejection does not establish a *prima facie* case of obviousness in accordance with the requirements of MPEP §2143, which states, in part:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

In particular, the Applicant respectfully submits that there is no suggestion or motivation to combine Jardin and Ranger and, further, the proposed combination of Jardin and Ranger fails to teach or suggest all of the claim limitations.

For example, Claim 1 recites, in part:

in response to the test yielding the first result, sending the decrypted data to an origin server over a given network in a second hop.

In an effort to suggest such claimed feature, the rejection cites col. 7, lines 10-15 and 53-56 of Jardin, and col. 4, lines 38-52 of Ranger. However, the cited portions of Jardin describe the transmission of encrypted data to a server (Jardin, col. 7, line 14), contrary to the presently discussed feature of Claim 1. Further still, the cited portion of Ranger pertains to the processing flow of FIG. 2, which shows a closed loop from which data is never shown to be transmitted either to an intended recipient, as asserted in the rejection, or to an origin server, as recited in presently rejected Claim 1.

Thus, the Applicant respectfully submits that the failure by both Jardin and Ranger to teach at least the features of Claim 1 discussed above also supports the Applicant's assertion that there is no motivation to combine the references. Thus, for at least the reasons set forth above, it is respectfully submitted that Claim 1 is patentably distinguishable over the proposed combination of Jardin and Ranger. It is further submitted that **Claims 2-13**, which depend from Claim 1, are similarly distinguishable over Jardin and Ranger.

With regard to **Claim 14**, similar to the statement above pertaining to Claim 1, the Applicant repeats its objection to the statement in the rejection that "Ranger discloses performing a test relative to the decrypted data, the test yielding one of at least a first result and a second result, wherein the Examiner interprets the first result as the data not presenting a security risk and the second result as the data presenting a security risk," (emphasis added by Applicant). In particular, the Applicant submits that the "interpretation" emphasized above is not appropriate because it attributes features or limitations to Claim 14 that simply are not recited therein. The Applicant respectfully requests that the stated interpretation of Claim 14 be withdrawn.

The method of Claim 14 comprises:

receiving unencrypted data from a client over a secure network in a first hop;

performing a test relative to the unencrypted data, the
test yielding one of at least a first result and a second result;
and,
in response to the test yielding the first result,
encrypting the unencrypted data into encrypted data;
sending the encrypted data to an origin server over an
unsecure network in a second hop.

The processing flow of FIG. 3 of Jardin, to which the rejection alludes, includes blocks 330, 332, 334, 336, and 338 describes packet processing over a secure link, as indicated by decision branch 320. However, whereas Claim 14 recites, in part, “receiving unencrypted data from a client over a secure network in a first hop,” block 330 *contrarily* describes “broker decrypts packets received from client.” This deficiency of Jardin, with respect to Claim 14, is not remedied by Ranger, nor is any assertion to that effect made in the rejection.

The Applicant respectfully qualifies the statement in the rejection that Jardin “disclose[s] transmitting the encrypted data to a server over an unsecure network,” by noting that such processing occurs after the broker decrypts encrypted packets received over an unsecure link, whereas Claim 14 recites “received *unencrypted* data over data from a client over a *secure network* in a first hop;...sending the unencrypted data to an origin server over an *unsecure network* in a second hop” (emphasis added).

The rejection does assert that Ranger also “disclose[s] transmitting the encrypted data to a server over an unsecure network.” However, as discussed above with regard to presently rejected Claim 1, the cited portion of Ranger pertains to the processing flow of FIG. 2, which shows a closed loop from which data is never shown to be transmitted either to an intended recipient, as asserted in the rejection, or to an origin server, as recited in Claim 14.

Thus, the Applicant respectfully submits that the failure by both Jardin and Ranger to teach at least the features of Claim 14 discussed above also supports the Applicant’s assertion that there is no motivation to combine the references. Thus, for at least the reasons set forth above, it is respectfully submitted that Claim 14 is patentably distinguishable over the

proposed combination of Jardin and Ranger. It is further submitted that **Claims 15-27**, which depend from Claim 14, are similarly distinguishable over Jardin and Ranger.

With regard to **Claim 28**, the Applicant objects to the statement in the rejection that “Ranger discusses wherein the data is transmitted in response to performing a test relative to the decrypted data yielding a particular response, wherein the Examiner interprets the response to be the virus free result of a virus check performed on the data,” (emphasis added by Applicant). In particular, the Applicant submits that the “interpretation” emphasized above is not appropriate because it attributes features or limitations to Claim 28 that simply are not recited therein. The Applicant respectfully requests that the stated interpretation of Claim 28 be withdrawn.

The system of Claim 28 comprises:

- a client to send encrypted data over an unsecure network in a first hop;
- a proxy within a secure network to receive the encrypted data and decrypt the encrypted data into decrypted data, the proxy sending the decrypted data over the secure network in a second hop in response to performing a test relative to the decrypted data yielding a particular response;
- and,
- an origin server within the secure network to receive the decrypted data.

The broker described in the cited portions of Jardin, referring to the processing flow of FIG. 3, which includes blocks 340, 342, 344, and 346 describes packet processing over an unsecure link, as indicated by decision branch 320. However, whereas Claim 28 recites, in part, “a proxy *within a secure network*...sending data over the *secure network*...” (emphasis added) block 346 of Jardin *contrarily* describes “broker sending client packets to server” over an unsecure link. This deficiency of Jardin, with respect to Claim 28, is not remedied by Ranger, nor is any assertion to that effect made in the rejection.

Further still, the Applicant again notes that the cited portion of Ranger pertains to the processing flow of FIG. 2, which shows a closed loop from which data is never shown to be

transmitted either to an intended recipient, as asserted in the rejection, or to an origin server, as recited in Claim 28.

Thus, the Applicant respectfully submits that the failure by both Jardin and Ranger to teach at least the features of Claim 1 discussed above also supports the Applicant's assertion that there is no motivation to combine the references. Thus, for at least the reasons set forth above, it is respectfully submitted that Claim 28 is patentably distinguishable over the proposed combination of Jardin and Ranger. It is further submitted that **Claims 29 and 30**, which depend from Claim 28, are similarly distinguishable over Jardin and Ranger.

With regard to **Claim 31**, the Applicant objects to the statement in the rejection that "Ranger discusses wherein the data is transmitted in response to performing a test relative to the unencrypted data yielding a particular response, wherein the Examiner interprets the response to be the virus free result of a virus check performed on the data," (emphasis added by Applicant). In particular, the Applicant submits that the "interpretation" emphasized above is not appropriate because it attributes features or limitations to Claim 31 that simply are not recited therein. The Applicant respectfully requests that the stated interpretation of Claim 31 be withdrawn.

Further, since the above-statement in the rejection serves as the basis for combining Jardin and Ranger to reject Claim 31, the Applicant respectfully submits that there is insufficient motivation to combine the references, and therefore there is no basis for a *prima facie* case of obviousness. Thus, the Applicant respectfully submits that Claim 31 is patentably distinguishable over the proposed combination of Jardin and Ranger. It is further submitted that **Claim 32**, which depends from Claim 31, is similarly distinguishable over Jardin and Ranger.

With regard to **Claim 33**, the Applicant objects to the statement in the rejection that "Ranger discloses performing a test relative to the decrypted data, the test yielding one of at least a first result and a second result, wherein the Examiner interprets the first result as the

data not presenting a security risk and the second result as the data presenting a security risk,” (emphasis added by Applicant). In particular, the Applicant submits that the “interpretation” emphasized above is not appropriate because it attributes features or limitations to Claim 33 that simply are not recited therein. The Applicant respectfully requests that the stated interpretation of Claim 33 be withdrawn..

Further, since the above-statement in the rejection serves as the basis for combining Jardin and Ranger to reject Claim 33, the Applicant respectfully submits that there is insufficient motivation to combine the references, and therefore there is no basis for a *prima facie* case of obviousness. Thus, the Applicant respectfully submits that Claim 33 is patentably distinguishable over the proposed combination of Jardin and Ranger. It is further submitted that **Claims 34-36**, which depend from Claim 33, are similarly distinguishable over Jardin and Ranger.

For at least the reasons set forth above, it is respectfully submitted that the rejection has failed to establish a *prima facie* obviousness rejection of pending Claim 1-36. Therefore, it is respectfully requested that the outstanding rejection under 35 U.S.C. §103(a) be reconsidered and withdrawn

Conclusion

The remaining references of record have been studied. It is respectfully submitted that they do not compensate for the deficiencies of the references cited to reject Claims 1-36.

All objections and rejections having been addressed, it is respectfully submitted that the present application is now in condition for allowance. Early and forthright issuance of a Notice to that effect is earnestly solicited.

Respectfully submitted,

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